

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

STEVEN R BELITZ,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

Case No. C10-5130FDB/JRC

REPORT AND  
RECOMMENDATION TO DENY  
IN FORMA PAUPERIS STATUS

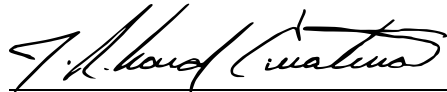
**NOTED FOR: April 16, 2010**

This habeas corpus action, filed pursuant to 28 U. S.C. 2254, has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrate Judge's Rules MJR 3 and MJR 4. Petitioner seeks to proceed in forma pauperis, but has an average spendable balance in his account that would allow for payment of the full five dollar filing fee (Dkt. # 1). Petitioner earns fifty five dollars a month (Dkt. # 1).

The district court may permit indigent litigants to proceed in forma pauperis upon completion of a proper affidavit of indigence. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Petitioner has the funds needed for full payment.

1 Plaintiff has not shown that is unable to pay the full filing fee to proceed with his petition.  
2 Accordingly the court recommends the in forma pauperis status be **DENIED and petitioner be**  
3 **given thirty days to pay the filing fee.** Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the  
4 Federal rules of Civil Procedure, the parties shall have fourteen (14) days from service of this  
5 Report to file written objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result  
6 in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985).  
7 Accommodating the time limit imposed by Rule 72(b), the clerk is directed to set the matter for  
8 consideration on **April 16, 2010**, as noted in the caption.

9 Dated this 12<sup>th</sup> day of March, 2010.

10  
11 

12 J. Richard Creatura  
13 United States Magistrate Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26